



July 5, 2023

**Via Electronic Filing—[www.regulations.gov](http://www.regulations.gov)**

The Honorable Michael Regan  
Administrator  
Environmental Protection Agency  
Mail Code 28221T  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

**RE: Multi-Pollutant and Emissions Standards for Model Year 2027 and Later Light-Duty and Medium-Duty Vehicles [EPA-HQ-OAR-2022-0829]**

Dear Administrator Regan:

Our associations represent producers, blenders, and sellers of renewable fuel, as well as the farmers who grow renewable fuel feedstocks. We submit these comments in response to the Environmental Protection Agency's ("EPA's" or the "Agency's") proposed rule for multi-pollutant emissions standards for model year ("MY") 2027 and later light-duty and medium-duty vehicles ("Proposed Rule" or the "Proposal").<sup>1</sup>

Renewable fuels such as ethanol materially lower gasoline's carbon footprint. If properly incentivized, these technologies' capability to reduce emissions can continue to grow alongside other decarbonization technologies such as clean electricity. Pursuing one solution does not require abandoning others.

As articulated in this letter, and in our associations' respective comments in response to the Proposal, we are concerned that EPA is pursuing a single technology as the solution to decarbonize light-duty transportation. The speed at which the Agency appears to anticipate the market and consumers will transition to electric vehicles is divorced from our members' assessment of reality. The Proposed Rule does not appreciate the market obstacles associated with such a massive transition in consumer behavior. It also abandons proven decarbonization

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<sup>1</sup> Environmental Protection Agency, "Multi-Pollutant and Emissions Standards for Model Year 2027 and Later Light-Duty and Medium-Duty Vehicles" 88 FR 29,184 (May 5, 2023) *available at* <https://www.govinfo.gov/content/pkg/FR-2023-05-05/pdf/2023-07974.pdf> [hereinafter the "Proposed Rule"].

technologies, such as higher-octane liquid fuels, that can deliver material emissions reductions using existing infrastructure, existing vehicles, and working with consumers' existing behavior.

Our associations support the Agency's stated goal of improving the emissions consequences of over-the-road transportation. The Proposed Rule's approach toward realizing that objective, however, is flawed. A technology-neutral approach to transportation decarbonization will help to mitigate costs, promote innovation, and address the practical challenges associated with electrification. All fuels and technologies should be treated equally within the context of emissions standards. The Proposal does not do this, but instead artificially tilts the scale towards electric vehicles ("EVs") by only accounting for emissions from one segment of the value chain: vehicle tailpipes.

The Proposed Rule also exceeds the scope of the Agency's statutory authority, which does not include the authority to set greenhouse gas emission standards that effectively mandate EVs. Indeed, Congress directly precluded EPA from using Section 202(a) of the Clean Air Act to phase out internal combustion vehicles. The Supreme Court has also made clear in recent decisions that an agency must have clear congressional authorization in order to exercise significant powers.<sup>2</sup> The Agency's attempt to shift the U.S. transportation fleet to EVs is analogous to the shift in energy policy that EPA directed in the Clean Power Plan, which was rejected by the Supreme Court in *West Virginia v. EPA*. The Agency also projects its rule will result in enormous compliance costs, indicating that the Proposal is economically significant and therefore likely to fall within the Supreme Court's "major question" doctrine.

The Proposed Rule is also arbitrary and capricious because it fails to accurately and fairly account for the greenhouse gas emissions impacts of both EVs and biofuels. EPA should use the best available science to accurately account for the full lifecycle carbon intensity associated with each fuel and technology, but the Proposal ignores the significant upstream emissions from electricity generation associated with EVs. Incentives for alternative fuel technologies should be tied to those technologies' full lifecycle environmental attributes rather than a single segment of the lifecycle (i.e., tailpipe emissions). The Agency should revise the Proposal to adopt a more market-oriented, technology-neutral, and consumer-focused approach to decarbonizing light-duty vehicle transportation.

### **I. Renewable Liquid Fuels Meaningfully Reduce Emissions.**

During the past few decades, there has been extraordinary growth in the consumption of biofuels such as ethanol and biodiesel, as well as other low-carbon fuels such as renewable natural gas, compressed natural gas, and renewable diesel. These liquid fuels are all mostly compatible with existing infrastructure that was originally developed for hydrocarbons and is already ubiquitous throughout the country.

Biofuels and other renewable fuels work to build and maintain a competitive marketplace, maximize the climate benefits of liquid fuels, minimize fuel supply disruptions, and impose meaningful downward pressure on fuel prices. Existing alternative fuel incentives, including the

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<sup>2</sup> See *Alabama Ass'n of Realtors v. HHS*, 141 S. Ct. 2485, 2489 (2021); *West Virginia v. EPA*, 142 S. Ct. 2587, 2609 (2022).

Renewable Fuel Standard (“RFS”) and biofuel blending and alternative fuel infrastructure tax credits, have successfully enabled our collective membership to build a robust renewable fuel value chain in the United States. The incentives Congress established over the past few decades have caused the displacement of significant volumes of petroleum-based fuel with renewable fuels.

Congress, in designing programs such as the RFS, recognized that the most effective way to get American motorists to purchase lower-carbon alternatives is to make renewable fuel blends *less expensive* than the petroleum-based fuels they are designed to displace. Over the past few years, the economic opportunities associated with selling higher biofuel blends have grown. As petroleum prices rise and refined product supplies tighten, blending incentives tend to increase as retailers gravitate toward lower-priced, lower-carbon alternatives such as ethanol and other renewable fuels.

It is also important to recognize the role renewable liquid fuels play in harnessing *existing* infrastructure to maximize diverse investments and achieve emissions reduction goals. Importantly, renewable fuels do not require new vehicle purchases and lead to significant emissions reductions by improving the emissions profile of vehicles already on the road. It is exponentially less expensive to leverage existing infrastructure than to create entirely new supply chains and infrastructure. To the extent environmental objectives can be achieved by utilizing the infrastructure already in place, consumers will more seamlessly gravitate to new types of fuels and vehicles.

If the final rule better leverages the existing low-carbon fuel value chain and retailers’ understanding of consumer behavior, vehicle manufacturers will be able to lower emissions in new vehicles (including EVs) while also reducing emissions in the current fleet. Given the uncertainty surrounding the Agency’s overly optimistic timelines, this represents a commonsense approach to reducing both tailpipe emissions *and* lifecycle emissions in the most timely, cost-effective, and efficient way possible.

## **II. Proposed Electrification Timelines are Unworkable.**

The challenges associated with electrifying the light- and medium-duty fleet cannot be understated. EPA projects that the Proposed Rule will result in 67 percent of light-duty vehicles sold in 2032 being electric. That figure is an average of 78 percent electric sedans, 68 percent electric pickups and 62 percent electric crossover and SUVs.<sup>3</sup> Conversely, EPA estimates that in the absence of any regulations, electric vehicles would make up only 39 percent of new sales in 2032.<sup>4</sup>

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<sup>3</sup> Proposed Rule at 29,329 (Table 80).

<sup>4</sup> Reputable estimates on how quickly EV sales will increase vary widely. S&P Global Mobility estimates that by 2030, EVs will be 40 percent of new vehicle sales. The Energy Information Administration, on the other hand, estimates that EVs will be 17 percent of new vehicle sales by 2030. McKinsey has the highest estimate and projects that EVs will be 48 percent of new vehicle sales by 2030. Given these varying estimates – all from highly respected sources – the Agency should exercise caution about consumers’ willingness to purchase, and manufacturers’ ability to deliver, EVs at the rates required by the Proposed Rule. Writing rules on its own does not mean that challenges related to supply chains for making the vehicles or consumer sentiment will change.

These timelines are entirely untethered from the market’s capabilities. Most prospective EV drivers will need fast, high-powered on-the-go charging solutions before they’re comfortable buying an EV.<sup>5</sup> Although fuel retailers are very active in the National Electric Vehicle Infrastructure Program (“NEVI” Program) and other federal and state funding opportunities, it remains unacceptably difficult to identify a viable business case for installing EV charging stations. Unless those obstacles are permanently removed, these challenges will remain *regardless* of what the final rule demands.

Most of these impediments involve an electricity market structure that was not designed for – and is thus incompatible with – the retail fuel market. Many fuel retailers have installed EV charging stations at their outlets, utilizing any number of business models and ownership structures. Very few, if any, of these investments are profitable on a self-sustaining basis. The structural impediments to the profitability of public EV charging are too significant to overcome. These existing investments should therefore be interpreted as “beta tests” by companies exploring the charging space, rather than indicators of a viable, sustainable business model.

We are confident that the right combination of policy incentives and signals will enable the market to overcome any barriers that exist today. We simply fail to understand the rationale for leaving emission reduction opportunities on the table while we work toward those aspirational objectives. The best way to address practical impediments to electrification is to inject flexibility into the Proposed Rule while simultaneously promoting near-term emissions reductions through the use of multiple technologies, including renewable liquid fuels.

No one solution will decarbonize transportation energy. What policymakers think is the best solution today may be surpassed by subsequent ingenuity and innovation. Sound policy should not stifle innovation by mandating specific solutions. Instead, policy should set performance goals and let the market – guided by consumers – innovate to find the best way to meet those goals.

### **III. Conclusion**

Our associations look forward to working with EPA to improve automotive emissions standards in a manner that treats all technologies equally. Thank you for the opportunity to provide these comments.

Sincerely,

National Association of Convenience Stores  
National Corn Growers Association  
NATSO, Representing America’s Travel Plazas and Truckstops  
National Farmers Union  
Renewable Fuels Association  
SIGMA: America’s Leading Fuel Marketers  
Growth Energy

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<sup>5</sup> Consumer Reports, “Battery Electric Vehicles and Low Carbon Fuel: Overview of Methodology,” April 2022, [https://article.images.consumerreports.org/prod/content/dam/surveys/Consumer\\_Reports\\_BEV%20AND%20LCF%20SURVEY\\_18\\_FEBRUARY\\_2022](https://article.images.consumerreports.org/prod/content/dam/surveys/Consumer_Reports_BEV%20AND%20LCF%20SURVEY_18_FEBRUARY_2022).